

§ 9701.357

§ 9701.357 Miscellaneous.

(a) Except in the case of an employee who does not receive a pay increase under §§ 9701.323 or 9701.335 because of an unacceptable rating of record, an employee's rate of basic pay may not be less than the minimum rate of the employee's band (or the adjusted minimum rate of that band).

(b) Except as provided in § 9701.356, an employee's rate of basic pay may not exceed the maximum rate of the employee's band rate range.

(c) DHS must follow the rules for establishing pay periods and computing rates of pay in 5 U.S.C. 5504 and 5505, as applicable. For employees covered by 5 U.S.C. 5504, annual rates of pay must be converted to hourly rates of pay in computing payments received by covered employees.

(d) DHS will issue implementing directives regarding the movement of employees to or from a band with a rate range that is increased by a special rate supplement.

(e) For the purpose of applying the reduction-in-force provisions of 5 CFR part 351, DHS must establish representative rates for all band rate ranges.

(f) If a DHS employee moves from the pay system established under this subpart to a GS position within DHS having a higher level of duties and responsibilities, DHS may issue implementing directives that provide for a special increase prior to the employee's movement in recognition of the fact that the employee will not be eligible for a promotion increase under the GS system.

SPECIAL PAYMENTS

§ 9701.361 Special skills payments.

DHS will issue implementing directives regarding additional payments for specializations for which the incumbent is trained and ready to perform at all times. DHS may determine the amount of the payments and the conditions for eligibility, including any performance or service agreement requirements. Payments may be made at the same time as basic pay or in periodic lump-sum payments. Special skills payments are not basic pay for any purpose and may be terminated or reduced at any time without triggering

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pay retention or adverse action procedures.

§ 9701.362 Special assignment payments.

DHS will issue implementing directives regarding additional payments for employees serving on special assignments in positions placing significantly greater demands on the employee than other assignments within the employee's band. DHS may determine the amount of the payments and the conditions for eligibility, including any performance or service agreement requirements. Payments may be made at the same time as basic pay or in periodic lump-sum payments. Special assignment payments are not basic pay for any purpose and may be terminated or reduced at any time without triggering pay retention provisions or adverse action procedures.

§ 9701.363 Special staffing payments.

DHS will issue implementing directives regarding additional payments for employees serving in positions for which DHS is experiencing or anticipates significant recruitment and/or retention problems. DHS may determine the amount of the payments and the conditions for eligibility, including any performance or service agreement requirements. Payments may be made at the same time as basic pay or in periodic lump-sum payments. Special staffing payments are not basic pay for any purpose and may be terminated or reduced at any time without triggering pay retention or adverse action procedures.

TRANSITIONAL PROVISIONS

§ 9701.371 General.

(a) Sections 9701.371 through 9701.374 describe the transitional provisions that apply when DHS employees are converted to a pay system established under this subpart. An affected employee may convert from the GS system, a prevailing rate system, the SL/ST system, or the SES system, as provided in § 9701.302. For the purpose of this section and §§ 9701.372 through 9701.374, the terms "convert," "converted," "converting," and "conversion" refer to employees who become

covered by the pay system without a change in position (as a result of a coverage determination made under § 9701.102(b)) and exclude employees who are reassigned or transferred from a noncovered position to a position already covered by the DHS system.

(b) DHS will issue implementing directives prescribing the policies and procedures necessary to implement these transitional provisions.

§ 9701.372 Creating initial pay ranges.

(a) DHS must, after coordination with OPM, set the initial band rate ranges for the DHS pay system established under this subpart. The initial ranges will link to the ranges that apply to converted employees in their previously applicable pay system (taking into account any applicable special rates and locality payments or supplements).

(b) For employees who are law enforcement officers as defined in 5 U.S.C. 5541(3) and who were covered by the GS system immediately before conversion, the initial ranges must provide rates of basic pay that equal or exceed the rates of basic pay these officers received under the GS system (taking into account any applicable special rates and locality payments or supplements).

§ 9701.373 Conversion of employees to the DHS pay system.

(a) When a pay system is established under this subpart and applied to a category of employees, DHS must convert employees to the system without a reduction in their rate of pay (including basic pay and any applicable locality payment under 5 U.S.C. 5304, special rate under 5 U.S.C. 5305, locality rate supplement under § 9701.332, or special rate supplement under § 9701.333).

(b) When an employee receiving a special rate under 5 U.S.C. 5305 before conversion is converted to an equal rate of pay under the DHS pay system that consists of a basic rate and a locality or special rate supplement, the conversion will not be considered as resulting in a reduction in basic pay for the purpose of applying subpart F of this part.

(c) If another personnel action (e.g., promotion, geographic movement)

takes effect on the same day as the effective date of an employee's conversion to the new pay system, DHS must process the other action under the rules pertaining to the employee's former system before processing the conversion action.

(d) An employee on a temporary promotion at the time of conversion must be returned to his or her official position of record prior to processing the conversion. If the employee is temporarily promoted immediately after the conversion, pay must be set under the rules for promotion increases under the DHS system.

(e) The Secretary has discretion to make one-time pay adjustments for GS and prevailing rate employees when they are converted to the DHS pay system. DHS will issue implementing directives governing any such pay adjustment, including rules governing employee eligibility, pay computations, and the timing of any such pay adjustment.

(f) The Secretary has discretion to convert entry/developmental employees in noncompetitive career ladder paths to the pay progression plan established for the Entry/Developmental band to which the employee is assigned under the DHS pay system. DHS will issue implementing directives governing any such conversion, including rules governing employee eligibility, pay computations, and the timing of any such conversion. As provided in paragraph (a) of this section, DHS must convert employees without a reduction in their rate of pay.

§ 9701.374 Special transition rules for Federal Air Marshal Service.

Notwithstanding any other provision in this subpart, if DHS transfers Federal Air Marshal Service positions from the Transportation Security Administration (TSA) to another organization within DHS, DHS may cover those positions under a pay system that is parallel to the pay system that was applicable to the Federal Air Marshal Service within TSA. DHS may, after coordination with OPM, modify that system. DHS will issue implementing directives on converting Federal Air Marshal Service employees to